

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

JAMES ALLEN BRAY #1188442

§

v.

§ CIVIL ACTION NO. 9:05cv214

DIRECTOR, TDCJ-CID

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
ON PLAINTIFF'S MOTION TO PROCEED *IN FORMA PAUPERIS*

The Petitioner James Bray, proceeding *pro se*, filed this application for the writ of habeas corpus challenging the validity of his conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

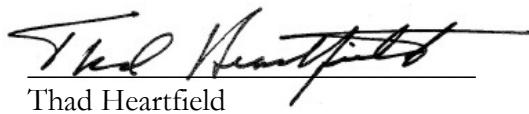
After reviewing the Petitioner's motion for leave to proceed *in forma pauperis*, the Magistrate Judge issued a Report on November 4, 2005, recommending that the motion for leave to proceed *in forma pauperis* be denied and that the Petitioner be required to pay the habeas corpus filing fee of \$5.00. Bray received a copy of this Report on November 10, 2005, but has filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has examined the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for leave to proceed *in forma pauperis*, filed October 31, 2005, is DENIED. The Plaintiff shall have until January 6, 2006, in which to pay the habeas corpus filing fee of \$5.00. Should he fail to comply with this order, his petition may be dismissed for failure to prosecute or to obey an order of the Court.

**SIGNED** this the 30 day of **November, 2005**.



Thad Heartfield  
Thad Heartfield  
United States District Judge